

IN THE DISTRICT COURT OF CHERRY COUNTY, NEBRASKA

NANCY JEAN BOHMAN,

Petitioner,

vs.

CURTIS GALE BOHMAN,

Respondent.

Case No. CI00-103

ORDER MODIFYING DECREE

DATE OF TRIAL: March 4, 2003.

DATE OF RENDITION: March 13, 2003.

DATE OF ENTRY: See court clerk's file-stamp date (§ 25-1301).

APPEARANCES:

For the petitioner: Todd Flynn with petitioner.

For the respondent: James J. Orr with respondent.

SUBJECT OF TRIAL: Petitioner's application to modify decree.

DECREE INVOLVED:

Date of original decree: July 26, 2001.

Date last modified: Not applicable.

FINDINGS: The court finds:

1. There has been a material change of circumstances since the decree was entered or last modified. While the evidence shows that the court's plan for implementation of unsupervised visitation has been generally successful, the respondent did fail to comply with the requirements in certain respects.

2. The provisions of this modification order are crafted to deal with the remaining vestiges of the problems that necessitated supervised visitation initially.

3. For the parties' convenience, this order restates paragraph 12 of the decree in its entirety as modified, such that the paragraph 12 set forth in the order below entirely replaces the paragraph 12 of the original decree. Consequently, any portion of the original paragraph 12 not restated below is effectively deleted by this modification.

ORDER: IT IS THEREFORE ORDERED, ADJUDGED, AND
DECREED that:

1. **RELIEF GRANTED/DENIED:** The application is granted to the extent of the relief set forth below and is otherwise denied.

2. **PRIOR DECREE OTHERWISE EFFECTIVE:** Paragraph 12 of the original decree is entirely superseded by this order. The remainder of the decree previously entered in this case (and as previously modified, if applicable) shall remain in full force and effect except as expressly modified by this order.

3. **CHILDREN:** Paragraph 12 of the original decree is modified to provide:

12. CHILDREN:

A. There is no entry concerning any minor child affected by this action in the Nebraska Child Custody Jurisdiction Act Registry of the Court, and this Court has jurisdiction of the minor child of the parties: [deleted].

B. The petitioner is awarded the care, custody and control of the minor child of the parties, subject to the specific rights of visitation and correspondence in the respondent set forth below.

C. Appendix "A," Supplemental Order for Custody, etc., attached is incorporated into this decree, and the parties are directed to comply therewith, except to the extent of any conflict with the specific provisions of this "CHILDREN" section or any paragraph or subparagraph hereof.

D. The respondent shall be entitled to specific rights of visitation and correspondence as specified in Appendix "C" attached hereto and incorporated by reference. All such visitations, except as expressly noted otherwise, are subject to the following requirements and conditions:

(1) The respondent shall, within 30 days from the date of entry of this decree as modified, commence and implement an appropriate program of joint counseling by the respondent and the minor child with a properly licensed mental health professional.

(a) Such joint counseling shall be directed to assist the child in continuing to adjust to the change in family circumstances caused by the separation, and to assist the respondent in relating appropriately to the child in such process.

(b) Such program of joint counseling shall continue until the counselor determines that the goals have been accomplished or until further order of the court, whichever occurs first.

(c) The respondent or respondent's attorney shall provide a copy of this decree as modified to the counselor and the respondent's attorney shall promptly file a notice of compliance with this requirement with the court clerk.

(d) The respondent shall give his express written waiver of any privilege under § 27-504 for any communications with such professional, and shall notify the professional at the beginning of the relationship of the requirements of this decree as modified and the express waiver of privilege required by this decree as modified.

(e) At the completion of three months of such joint counseling and at least annually thereafter, or more often if determined appropriate by the mental health professional, the mental health professional shall submit to petitioner or petitioner's counsel of record a written report of such professional regarding the progress of joint counseling. If such report is not timely submitted and the petitioner or petitioner's counsel fails to make written demand for compliance within 60 days of the due date thereof, the report requirement for that particular time period shall be deemed to have been waived. The content and substance of the report shall not be revealed by the petitioner or the petitioner's counsel to any other person or entity except as expressly authorized by a written order of this court or upon the order or direction of any higher appellate court.

(f) This program of joint counseling shall be in addition to any other religious or spiritual counseling that the respondent may elect to initiate or continue. However, the respondent shall not allow such religious or spiritual counseling to interfere with the joint counseling required by this decree as modified.

(g) The respondent shall be responsible for the payment of all costs and expenses associated with such program of joint counseling. Financial means (including any available insurance) may justify a less-than-optimal program, but shall not be used to and will not justify a total failure to undertake such program of joint counseling.

(h) Failure to continue such joint counseling so long as professionally appropriate, or to perform any act or omission reasonably necessary for the accomplishment of the therapeutic goals, shall constitute a material change in circumstances.

(2) During any time when the minor child is in the presence of the respondent and for a period of 24 hours before and after any visitation between the respondent and the child, the respondent shall not have in his possession or upon the premises of his house and its curtilage or within his access at any other location at which the respondent or the child may be present during such periods, any firearm as defined by § 28-1201(1). If the respondent is legally authorized and chooses to retain ownership or possession of any such firearm at other times, the respondent shall make arrangements with an appropriate

responsible adult to maintain possession and control of such firearms during the prohibited periods described above, and such other responsible adult shall possess and control such firearms to the exclusion of the respondent during such periods.

(3) The respondent shall not, directly or indirectly, by words or acts, harm, threaten, intimidate, or attempt to harm, threaten, or intimidate the petitioner or the child. This requirement applies at all times, within or without any time of visitation.

(4) The respondent shall consent to any reasonable search or seizure of person, premises, or vehicle, with or without probable cause, obtained by the petitioner at any time and performed by any law enforcement officer to assure compliance with the requirements of this decree as modified. This provision does not require any law enforcement officer to take any action requested by the petitioner; rather, it does require the respondent to consent to any such action that any law enforcement officer agrees to undertake at the petitioner's request.

(5) Any failure to comply with any requirement of this visitation order as modified shall be enforceable by contempt and shall constitute a material change of circumstances sufficient to support a modification of decree.

4. **COSTS:** Each party shall be required to pay his or her own respective costs and attorney fees. Any relief requested by any party and not expressly granted or denied herein shall be deemed to have been denied. This is a final order.

Signed in chambers at **Ainsworth**, Nebraska, on **March 13, 2003**;
DEEMED ENTERED upon file stamp date by court clerk.

BY THE COURT:

If checked, the court clerk shall:

- ☒ Mail a copy of this order to all counsel of record and any pro se parties.
Done on _____, 20____ by _____.
- ☒ Note the decision on the trial docket as: [date of filing] **Signed "Order Modifying Decree" entered.**
Done on _____, 20____ by _____.
- ☒ Mail postcard/notice required by § 25-1301.01 within 3 days.
Done on _____, 20____ by _____.
- ☐ Enter judgment on the judgment record.
Done on _____, 20____ by _____.

William B. Cassel
District Judge

Mailed to: